

**LAW OFFICE OF  
ROBERT JAY  
GUMENICK, P.C.**

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37 Terrace Place, Suite 200  
Brooklyn, New York 11218  
robert@gumenicklaw.com  
(917) 414-1183

Hon Sherilyn P. Garnett  
United States District Judge  
40 Foley Square  
New York, New York 10007

Re: Gumenick v. Adams 25:1-cv-00209

Dear Judge Garnett:

I am the Plaintiff in the above action. Plaintiff's motion for a temporary injunction is scheduled for 2PM on January 13, 2025. I respectfully write to you concerning your honor's order to show cause signed on January 10, 2025 (ECF Doc. No. 11). I am taking the liberty of writing in advance of the hearing to bring an issue to the Court's attention as soon as possible.

In my application, I alleged that after an extensive and diligent search, I was unable to locate a personal or business address where the Defendant may be found. I will not repeat here the efforts I made to locate the Defendant, which can be reviewed in my declaration in support (ECF Doc. No.4 at pars. 23-31) I advised the Court that the only way that I have been able to contact the Defendant is by email or text.

The Court's order requires service by both e-mail and certified mail. I cannot in good faith serve the Defendant by certified mail. As I alleged in my declaration, I know of no address where this service may be reasonably calculated to reach the Defendant.

My application for a summons was rejected by the Clerk. The docket entry states:  
**\*\*\*NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF  
SUMMONS. Notice to Attorney Robert J. Gumenick to RE-FILE Document No. 10  
Request for Issuance of Summons. The filing is deficient for the following reason(s):  
There is no permission on the docket for alternative service, summons with email can**  
Unless Agreed in a Writing, Electronic Service of Papers on this Firm is Prohibited

**not be issued at this time. Seek permission for alternative service or follow FRCP Rule 4 and refile the document using the event type Request for Issuance of Summons found under the event list Service of Process - select the correct filer/filers - and attach the correct summons form PDF. (gp) (Entered: 01/10/2025)**

I have filed proof of service of service of the required papers on the Defendant by e-mail. It is respectfully requested that the Court deem that service by e-mail is sufficient and instruct the Clerk to issue a summons. Thank you for your consideration of this letter.

Respectfully submitted,

  
Robert J. Gumenick

cc: Joshua Adams (by e-mail to j@jsatech.com)

DENIED. As the Clerk of Court indicated in its Notice to Attorney Regarding Deficient Request for Issuance of Summons, service of summons and complaint must be made pursuant to the requirements of Fed R. Civ. P. 4. In its issuance of the Order to Show Cause with Temporary Restraining Order, *see* Dkt. No. 11, the Court permitted service of the documents submitted in support of Plaintiff's motion for a preliminary injunction by e-mail and by certified mail, but that does not absolve Plaintiff of the requirements of Fed. R. Civ. P. 4 for proper service of the summons and complaint which establishes personal jurisdiction over the Defendant. Service by e-mail alone is facially insufficient under the Rules and only granted in rare circumstances where the defendant is located in a foreign country and plaintiff has established that all other methods of service have failed. *See* Fed. R. Civ. P. 4(f)(3); *see also, e.g., Kelly Toys Holdings, LLC. v. Top Dep't Store*, No. 22 CIV. 558 (PAE), 2022 WL 3701216, at \*9 (S.D.N.Y. Aug. 26, 2022). Plaintiff did not move for alternative service nor establish that Defendant is located in a foreign jurisdiction, and Plaintiff's allegations that he has been unable to locate a personal or business address for Defendant are insufficient for the Court to dissolve the clear requirements of Fed. R. Civ. P. 4. As Plaintiff is an attorney, the Court directs him to review the Federal Rules of Civil Procedure regarding service on individuals and respectfully suggests he hire a process server to the extent Defendant does not waive service or he is unable to otherwise comply with required service procedures.

Furthermore, Plaintiff is respectfully notified that the undersigned is Judge Margaret M. Garnett, District Judge for the Southern District of New York, and not Judge Sherilyn P. Garnett of the Central District of California.

Finally, Plaintiff is advised that the Show Cause Hearing is scheduled for January 24, 2025 at 2:00 PM, **not** January 13, 2025 as he states in this correspondence. *See* Dkt. No. 11.

SO ORDERED. Dated January 13, 2025.

  
HON. MARGARET M. GARNETT  
UNITED STATES DISTRICT JUDGE